

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fenkel	Team: Squad #10	CCRB Case #: 201402689	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 03/15/2014 11:15 AM	Location of Incident: inside the 44th precinct stationhouse	Precinct: 44	18 Mo. SOL 9/15/2015	EO SOL 9/15/2015	
Date/Time CV Reported Sat, 03/15/2014 12:40 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/20/2014 4:32 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Darren Melhado	10018	940463	044 PCT
2. POM Richard Young	31816	947624	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CPT Philip Aversano	00000	905409	PBBX TF
2. DT3 Marcos Sanchez	4830	931134	044 DET
3. DT3 Miguel Sanchez	6963	940701	044 DET

Officer(s)	Allegation	Investigator Recommendation
A.POM Richard Young	Force: PO Richard Young used a chokehold against § 87(2)(b)	
B.POM Darren Melhado	Force: PO Darren Melhado used physical force against § 87(2)(b)	
C.POM Richard Young	Force: PO Richard Young used physical force against § 87(2)(b)	
D.POM Richard Young	Force: PO Richard Young used physical force against § 87(2)(b)	
E.POM Richard Young	Force: PO Richard Young tightly handcuffed § 87(2)(b)	
F.POM Darren Melhado	Off. Language: PO Darren Melhado made remarks to § 87(2)(b) based upon race.	

Case Summary

On March 14, 2014, at approximately 6:10 p.m. at Audubon Avenue and West 165th Street in Manhattan, § 87(2)(b) was arrested by PO Darren Melhado and PO Richard Young. PO Melhado and PO Young had pursued § 87(2)(b) from the Bronx, and upon his arrest, § 87(2)(b) was transported back to the 44th precinct stationhouse in the Bronx (complaint encl. 5a-6b, CCRB statement encl. 6c-6g). At approximately 11:15 a.m. on March 15, 2014, § 87(2)(b) was brought upstairs by PO Young and PO Melhado to be debriefed by the detective squad. During § 87(2)(b)'s debriefing, PO Young allegedly approached § 87(2)(b), placed his left hand on the front of § 87(2)(b)'s throat, and pressed strongly on § 87(2)(b)'s neck, causing his breathing to be restricted (**Allegation A**). After the debriefing, § 87(2)(b) was taken back downstairs to the holding cell area by PO Young and PO Melhado. On the way down the stairs, PO Melhado allegedly slapped § 87(2)(b) on the mouth, told him he would beat him for lying, and proceeded to punch § 87(2)(b) in the face five times (**Allegation B**). PO Young approached and allegedly kicked § 87(2)(b)'s feet, causing him to fall to the ground, where PO Young allegedly held § 87(2)(b) by the neck and continued to kick § 87(2)(b) in the lower back (**Allegation A, Allegation C**). PO Young then released § 87(2)(b)'s neck, and began to punch § 87(2)(b) in the back and chest (**Allegation C**). PO Young acknowledged punching § 87(2)(b) twice in the face at this time, after § 87(2)(b) refused to remove his jacket before being placed in the holding cell (**Allegation D**). PO Young allegedly told § 87(2)(b) he would remove his handcuffs, but instead retightened them (**Allegation E**). E.M.S. arrived at the 44th precinct stationhouse and treated § 87(2)(b) (see privileged medical records folder, encl. 12). After E.M.S. left, § 87(2)(b) was removed from his holding cell for fingerprinting. When PO Melhado returned § 87(2)(b) to his holding cell, PO Melhado allegedly said, "Get over there, you bum-ass nigger (**Allegation F**). § 87(2)(b) was arrested on § 87(2)(b) (encl. 7e-g, 8e-g).

This case was reassigned to Investigator Cassandra Fenkel on December 18, 2014, upon Investigator Guinan's departure from the agency.

Since the incident, PO Melhado, PO Young, and Det. Miguel Sanchez, a witness officer, have been promoted to the rank of sergeant. For the purposes of this investigation, PO Melhado, PO Young, and Det. Sanchez will be addressed by their ranks at the time of the incident, police officers and detective.

Mediation, Civil, and Criminal Histories

- Due to § 87(2)(b)'s arrest, this case was ineligible for mediation.
- § 87(2)(b) has not filed a Notice of Claim with the NYC Comptroller's Office (encl. 17).
- As of May 15, 2015, the Booking, Arraignment, and Disposition System revealed 12 prior arrests for § 87(2)(b), § 87(2)(a) 160.50 (encl. 18a), § 87(2)(b), § 87(2)(c)

§ 87(2)(b)

■ § 87(2)(b)

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■ § 87(2)(b)

§ 87(2)(b) § 87(2)(c)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 4).
- PO Melhado has been a member of service for 9 years. PO Melhado has had 7 prior CCRB complaints filed against him involving 17 allegations, with two substantiated allegations. In CCRB case #200902708 an abuse of authority allegation (refusal to provide name/shield number) was substantiated by the CCRB and PO Melhado received command discipline B. In CCRB case #200911243 an abuse of authority allegation (stop) allegation was substantiated by the CCRB. The CCRB recommended command discipline, but the NYPD did not take any disciplinary action. § 87(2)(g)
- PO Young has been a member of service for 6 years and has had 6 prior CCRB complaints filed against him involving 13 allegations, none of which have been substantiated. § 87(2)(g)

Potential Issues

- According to § 87(2)(b) PO Young, and PO Melhado, there were no witnesses to this incident, as § 87(2)(b) was detained alone in a rear holding cell where there were no other prisoners.

Findings and Recommendations

Explanation of Subject Officer Identification

In his CCRB testimony, § 87(2)(b) described the plainclothes subject officers as follows: PO1, a white male with white and brown hair, standing 6'1" to 6'2" tall with a muscular build, in his thirties or forties, possibly with glasses, and PO2, a black male, standing 5'6" tall, with an average build, and approximately 32 to 33 years old. PO Young's NYPD Officer Photograph described him as a § 87(2)(b) old white male, standing 6'3" tall, with blonde hair, blue eyes, and an average build (encl. 8d). PO Melhado's NYPD photograph and pedigree information described him as a § 87(2)(b) old black male, standing 5'9" tall, with black hair, brown eyes, and an average build (encl. 7I). § 87(2)(g)

§ 87(2)(b): In his CCRB testimony, § 87(2)(b) alleged a black officer, who fit the physical description of PO Melhado, punched him five times in the face. However, the investigation identified the subject officer of this allegation as PO Young, a white officer, as PO Young acknowledged punching § 87(2)(b) in the face during his CCRB testimony. PO Melhado denied punching § 87(2)(b) in his CCRB testimony. Additionally, Capt. Aversano, who reported the incident to I.A.B., stated in his CCRB testimony that § 87(2)(b) complained only that PO Young punched him in the face. § 87(2)(g)

Allegation A – PO Richard Young used a chokehold against § 87(2)(b)

§ 87(2)(g)

In his CCRB interview, § 87(2)(b) testified that he was brought upstairs to the detective squad to be debriefed. § 87(2)(b) refused to provide a statement, at which point, PO Young

allegedly approached § 87(2)(b) and placed his left hand on the front of § 87(2)(b)'s throat. § 87(2)(b) testified that PO Young pressed strongly on his neck, which restrained § 87(2)(b)'s breathing and made his voice raspy. § 87(2)(b) alleged PO Young held his neck in this fashion for approximately five minutes. After his debriefing, § 87(2)(b) was brought back downstairs to the holding cell area, where § 87(2)(b) alleged PO Young again held him by the neck with one hand while kicking him multiple times. § 87(2)(b) described that PO Young allegedly held his neck strongly, causing him to have difficulty breathing, similar to what had occurred in the detective squad (encl. 6a-i).

§ 87(2)(b)'s physical condition appears normal in his arrest photograph. There are no visible marks or contusions on § 87(2)(b)'s neck area, though § 87(2)(b)'s dark skin tone could have obscured such injuries (encl. 6h). According to the medical treatment of prisoner report, § 87(2)(b) refused medical attention, and had only a small laceration to his lip (encl. 12). § 87(2)(b)'s refusal of treatment and injury to his lip was corroborated by the ambulance call report (see privileged medical records folder).

In his CCRB interview, PO Young testified that he could not recall if he was in the room with § 87(2)(b) while he spoke with detectives or if he had stayed outside of the room near the door. PO Young noted that from outside of the room, it was not possible to see inside it. PO Young denied having any physical contact with § 87(2)(b) while he was debriefed. Similarly, PO Young also denied using a chokehold as alleged by § 87(2)(b) in the holding cell area. PO Young testified that as he wrestled § 87(2)(b) into the holding cell, his left hand was on § 87(2)(b)'s jacket collar. PO Young denied that his hand made contact with § 87(2)(b)'s neck, and denied seeing § 87(2)(b)'s collar restrict across his neck. Additionally, PO Young denied intentionally restricting § 87(2)(b)'s breathing (encl. 8a-m).

In his CCRB interview, PO Melhado testified that though he was present during § 87(2)(b)'s debriefing with the detective squad, he did not see any officer make physical contact with § 87(2)(b)'s neck. Similarly, PO Melhado denied seeing PO Young with his hands in the vicinity of § 87(2)(b)'s neck at any time (encl. 7a-n).

In his CCRB interview, Det. Sanchez denied having an independent recollection of conducting § 87(2)(b)'s debriefing. Despite his lack of recollection, Det. Sanchez denied seeing any officer place § 87(2)(b) into a chokehold (encl. 11a-f). In his CCRB interview, Capt. Aversano testified that he did not witness the incident, and was only notified after it occurred. Capt. Aversano informally interviewed § 87(2)(b) about the incident, and was told by § 87(2)(b) that PO Young had punched him in the face after he refused to remove his jacket. § 87(2)(b) did not complain of any other physical force being used on him while speaking with Capt. Aversano. Capt. Aversano did not observe any marks on § 87(2)(b)'s neck area (encl. 9a-e).

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Allegation B – PO Darren Melhado used physical force against § 87(2)(b)

Allegation C – PO Richard Young used physical force against § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b)

In his CCRB testimony, § 87(2)(b) testified that after being debriefed by the detective squad, PO Young and PO Melhado walked him down the stairs to the holding cell area, and tried to persuade him to provide a statement regarding his arrest. § 87(2)(b) told the officers he did not know anything, at which point, PO Melhado allegedly slapped § 87(2)(b) stated he would beat him for lying, and proceeded to punch § 87(2)(b) in the face five times (see Allegation D and Explanation of Subject Officer Identification for analysis of punch). Upon reaching the holding cell area, § 87(2)(b) alleged that PO Young kicked § 87(2)(b)'s feet, causing him to fall onto the ground on his left side while handcuffed. PO Young then allegedly kicked § 87(2)(b) in the lower back numerous times, while holding § 87(2)(b) by the neck (see Allegation A for chokehold analysis). PO Young released § 87(2)(b)'s neck, and began to punch § 87(2)(b) in his back and chest while instructing § 87(2)(b) to tell him about the circumstances of his arrest. § 87(2)(b) did not reply, and only yelled, "Stop beating me." § 87(2)(b) did not move his body while on the ground. As the alleged force took place, PO Melhado stood in the doorway of the holding cell area. § 87(2)(b) approximated he was on the ground for 20 minutes, and was kicked and punched by PO Young the entire time (encl. 6a-i).

§ 87(2)(b)'s physical condition is normal in his arrest photograph, and is also listed as normal in the command log entry (encl. 6h, 14). Though § 87(2)(b) refused medical treatment, both the ambulance call report and medical treatment of prisoner report documented that § 87(2)(b) was hit in the lip, resulting in a laceration. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

In his CCRB testimony, PO Melhado denied calling § 87(2)(b) a liar and denied slapping § 87(2)(b) as he walked down the stairs. Similarly, PO Melhado denied having any physical contact with § 87(2)(b) at this time, aside from holding his bicep as they went down the stairs, to prevent § 87(2)(b) who was handcuffed, from falling. PO Melhado also denied continuing to question § 87(2)(b) in regards to the alleged crime, and denied seeing PO Young kick or punch § 87(2)(b) (encl. 7a-n).

In his CCRB testimony, PO Young testified that § 87(2)(b) remained cooperative while walking down the stairs to the holding cell area after his debriefing. PO Young denied seeing PO Melhado slap § 87(2)(b) in the face and denied that he and PO Melhado tried to elicit more of a statement from § 87(2)(b). Additionally, PO Young denied that he punched or kicked § 87(2)(b) on his body, and aside from grasping the collar of § 87(2)(b)'s jacket to remove it from him, PO Young used no other physical force on § 87(2)(b) at this time (encl. 8a-m).

According to Capt. Aversano, who informally interviewed § 87(2)(b) after the incident, § 87(2)(b) stated that PO Young punched him in the face, resulting in a laceration to his lower lip, and made no other complaint regarding any other physical force used against him while speaking with Capt. Aversano (encl. 9a-e).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D – PO Richard Young used physical force against § 87(2)(b)

It is undisputed that PO Young used physical force against § 87(2)(b) § 87(2)(g)

In his CCRB testimony, § 87(2)(b) alleged that an officer identified by the investigation as PO Young punched him in the face five times (encl. 6a-i).

In his CCRB testimony, PO Young testified that after he and PO Melhado brought § 87(2)(b) to the holding cell, he asked § 87(2)(b) to remove his jacket three or four times, and § 87(2)(b) refused. PO Young pulled the jacket off of § 87(2)(b)'s right arm, at which point § 87(2)(b) pushed PO Young's arm away in response. § 87(2)(b) then turned his body towards PO Young, raised his arms to his chest, balled his hands into fists, and assumed a fighting stance. In response, PO Young brought his fists up and bladed his body toward § 87(2)(b). § 87(2)(b) threw a punch at PO Young and missed. PO Young then struck § 87(2)(b) in the face "once or twice" with a closed fist, and § 87(2)(b) sustained a swollen and bleeding lip. PO Young explained that this all happened within a second, and he did not have time to restrain § 87(2)(b). When asked why he punched § 87(2)(b) in the face, PO Young explained he "wasn't going to wait to get hit." PO Young stated he deliberately punched § 87(2)(b) in the face because "there's a lot of nerve endings in the nose, it's going to hurt, and he's going to do what I'm telling him to do." Additionally, PO Young stated that after he had punched § 87(2)(b) in the face, he wrestled § 87(2)(b) into the holding cell, and § 87(2)(b) bit PO Young on the left forearm, and kicked PO Young in the left femur (encl. 8a-m). According to the aided report, PO Young received treatment at Jacobi Medical Center for the bite and kick (encl. 13a-13d). A line of duty report was also prepared, which corroborated the injuries PO Young received (encl. 7H).

In his CCRB testimony, PO Melhado denied seeing PO Young punch § 87(2)(b) (encl. 7a-n). According to Capt. Aversano's CCRB testimony, he responded to the 44th precinct stationhouse after receiving a call regarding an injured prisoner. Capt. Aversano informally interviewed § 87(2)(b) who was detained in the rear holding cell. § 87(2)(b) informed Capt. Aversano that he refused to remove his jacket, and PO Young punched him in the face, resulting in a laceration to his lower lip. Aside from this, § 87(2)(b) did not complain about any other aspects of PO Young or PO Melhado's treatment towards him (encl. 9a-e).

§ 87(2)(b)'s ambulance call report and the medical treatment of prisoner report both corroborated that § 87(2)(b) sustained a laceration to his lip. The medical treatment of prisoner report does not list how § 87(2)(b) sustained the laceration to his lip, and only stated that § 87(2)(b) refused medical treatment (encl. 12). The ambulance call report documented § 87(2)(b)'s chief complaint as follows: "I got hit in my lip." The ambulance call report lists the mechanism of injury as a "fight/brawl", but provided no further detail in regards to how § 87(2)(b) sustained his injury (see privileged medical records folder). Additionally, the investigation determined that § 87(2)(b) did not sustain the laceration to his lip prior to his interaction with PO Young in the holding cell area, as the command log documented § 87(2)(b)'s physical condition as normal, and § 87(2)(b)'s arrest reports did not document physical force having been used (encl. 7e-g, 8e-g).

According to Patrol Guide Procedure 203-11 an officer is allowed to use only the minimum amount of force that is necessary to overcome resistance (encl. 1a-b). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation E – PO Richard Young tightly handcuffed § 87(2)(b)

§ 87(2)(g)

In his CCRB testimony, § 87(2)(b) testified that PO Young said “Come here. Let me take the handcuffs” and § 87(2)(b) moved his hands out from behind his back in order for PO Young to remove the handcuffs. However, § 87(2)(b) alleged that instead of removing the handcuffs, PO Young squeezed the handcuffs tighter. § 87(2)(b) alleged he sustained a black abrasion/impression near the base of his left thumb, on top of his hand. Additionally, § 87(2)(b) alleged he sustained a mark on his skin near the inner portion of his left forearm, two inches below the wrist (encl. 6a-i).

According to the medical treatment of prisoner form and ambulance call report, § 87(2)(b) sustained a cut to his lip. There is no mention of any mark, impression, or abrasion to § 87(2)(b)'s thumb, hand, wrists, or forearm (encl. 12, see privileged medical records folder).

In his CCRB testimony, PO Young testified that after § 87(2)(b) was handcuffed, he was locked inside the holding cell. After the holding cell door was shut, § 87(2)(b) sat on the bench inside and yelled and screamed. PO Young could not recall what § 87(2)(b) was saying at this time. PO Young denied hearing § 87(2)(b) complain about the tension of his handcuffs at any point, and denied intentionally re-tightening § 87(2)(b)'s handcuffs (encl. 8a-m).

PO Melhado corroborated PO Young's account. In his CCRB testimony, PO Melhado denied hearing § 87(2)(b) complain about the tension of his handcuffs. PO Melhado could not recall if he or PO Young had handcuffed § 87(2)(b). PO Melhado denied re-tightening § 87(2)(b)'s handcuffs and did not acknowledge seeing PO Young do this (encl. 7a-n).

According to Capt. Aversano's CCRB testimony, during his conversation with § 87(2)(b) he complained only of PO Young having punched him in the face, and did not complain of any other physical force being used on him. (encl. 9a-e).

§ 87(2)(g)

Allegation F – PO Darren Melhado made a remark to § 87(2)(b) based upon race.

§ 87(2)(g)

In his CCRB testimony, § 87(2)(b) stated that after he was fingerprinted, he was brought back to his holding cell by PO Young and PO Melhado. § 87(2)(b) alleged that PO Melhado opened the holding cell door, pushed § 87(2)(b) into it by his back, and stated, “Go over there you bum-ass nigger” (encl. 6a-i).

In his CCRB testimony, PO Melhado testified that following the struggle to remove § 87(2)(b)'s jacket, he and PO Young were able to momentarily push § 87(2)(b) into the holding cell as they held his arms. PO Melhado denied making any statements to § 87(2)(b) when he pushed him into the holding cell, and denied telling § 87(2)(b) “Get over there, you bum ass nigger” (encl. 7a-n).

In his CCRB testimony, PO Young testified that he did not recall hearing PO Melhado issue any verbal directives to § 87(2)(b) and denied hearing PO Melhado call § 87(2)(b) a “nigger” at any point (encl. 8a-m). Capt. Aversano testified that § 87(2)(b) did not say anything regarding an officer's use of discourteous language or a racial remark while he spoke with him (encl. 9a-e).

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
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